## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TENNESSEE EASTERN DIVISION

JOHNNY M. HENNING,	)
Plaintiff,	) )
VS.	) No. 19-1301-JDT-cgc
MADISON COUNTY, TENNESSEE,  Defendant.	) ) )

## ORDER DIRECTING PLAINTIFF TO FILE UPDATED FINANCIAL INFORMATION OR PAY THE FULL \$505 APPELLATE FILING FEE

Plaintiff Johnny M. Henning, a prisoner acting *pro se*, filed a complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1.) The Court granted leave to proceed *in forma pauperis* and assessed the civil filing fee in accordance with the Prison Litigation Reform Act (PLRA), 28 U.S.C. §§ 1915(a)-(b). (ECF No. 7.) On January 15, 2020, the Court dismissed the complaint for failure to state a claim but granted leave to amend. (ECF No. 7.) Henning filed a timely amendment, (ECF No. 8), but the Court also determined the amended complaint failed to state a claim and dismissed the case with prejudice in its entirety. (ECF No. 10.) Judgment was entered on February 5, 2020. (ECF No. 11.) Henning has filed a notice of appeal. (ECF No. 12.)

Generally, a plaintiff granted leave to proceed *in forma pauperis* is not required to pay filing fees. 28 U.S.C. § 1915(a)(1). Because Henning is a prisoner, however, he must pay the entire \$505 appellate filing fee, although he may again be able to take advantage of the installment-payment method of § 1915(b). *See McGore v. Wrigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997), partially overruled on other grounds by LaFountain v. Harry, 716 F.3d 944, 951 (6th Cir. 2013.)

In order to take advantage of the installment procedures, a prisoner plaintiff must submit, along

with the notice of appeal, an unpdated in forma pauperis affidavit and inmate trust account

statement. Id. at 610; 28 U.S.C. § 1915(a)(2).

In this case, Henning did not submit any updated financial information with the notice of

appeal. Therefore, at the present time, he is not eligible to use the installment procedures of

§ 1915(b). Henning is, however, liable to the Court for the full \$505 appellate filing fee, which

accrued at the moment the notice of appeal was filed. Accordingly, he is hereby ORDERED to

submit either the full \$505 appellate filing fee or an updated in forma pauperis affidavit and trust

account statement within 30 days after the date of this order.

If Henning fails to either pay the fee or file the required documents in a timely manner, this

Court will deny leave to appeal in forma pauperis and assess the entire \$505 filing fee from his

inmate trust account without regard to the PLRA's installment procedures, and the Sixth Circuit

Court of Appeals may dismiss the appeal for failure to prosecute. However, if Henning timely

submits the required financial information and the Court finds he is still indigent, the Court will

grant leave to appeal in forma pauperis and assess the filing fee in accordance with the installment

procedures.

The Clerk is directed to send Henning a copy of the prisoner in forma pauperis affidavit

form along with this order. The Clerk also is directed to notify the Sixth Circuit of the entry of

this order.

IT IS SO ORDERED.

s/ James D. Todd

JAMES D. TODD

UNITED STATES DISTRICT JUDGE

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